

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH KRUPPENBACHER,

Plaintiff,

-against-

ANTHONY J. ANNUCCI, Acting
Commissioner, et al.,

Defendants.

20-CV-0107 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

By order dated March 23, 2020, the Court directed Plaintiff to show cause within sixty days why the Court should not dismiss his claims, brought under 42 U.S.C. § 1983, as time-barred. That order specified that failure to comply would result in dismissal of the complaint. Plaintiff has not submitted a declaration in response to the Court's March 23, 2020 order.¹ Accordingly, the complaint, filed *in forma pauperis* (IFP) pursuant to 28 U.S.C. § 1915(a)(1), is dismissed as time-barred under 28 U.S.C. § 1915(e)(2)(B)(ii).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal.

¹ In a docket entry dated April 9, 2020, the Clerk's Office noted, "OSC received Returned mail on 3/26/2020. Inmate refused mail." It is unlikely, however, that the returned mail was the Court's March 23, 2020 order to show cause, which was mailed to Plaintiff on March 26, 2020. (Dkt. Entry of March 26, 2020.) It appears more likely that the returned mail was the Court's March 5, 2020 order granting Plaintiff's IFP application. Due to the COVID-19 pandemic, the Clerk's Office has been unable to provide additional information regarding the returned mail. Whether Plaintiff refused the Court's order or received it and failed to respond is immaterial to the Court's decision to dismiss Plaintiff's claims as untimely.

Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: July 1, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge